

**City of Dunkirk Planning Board**  
**Meeting Minutes**

The Planning Board of the City of Dunkirk met on Tuesday, August 28, 2012 at 6:00 pm in the Mayor's Conference Room, City Hall.

Members present were Chairman Ed Schober, Andy Bohn, Chris Piede, John Mackowiak and Bill Tuggle.

Also present were Tim Gornikiewicz and Steve Neratko from the Department of Development, Jarrod Johnson and Frank Schneider from Brooks Memorial Hospital and Gib Snyder from the OBSERVER

Meeting was called to order by Ed Schober at 6:02pm.

Agenda was passed out by Tim Gornikiewicz. Previous meeting minutes were not provided.

**Communications from the Public and Petitions**

None

**Old Business**

***Demolition Review-501 Central Avenue  
Resolution 2012-07***

Chairman Ed Schober asked Brooks Memorial Hospital Chief Operating Officer Jarrod Johnson if there was anything he wanted to add to previous testimony.

"I'm happy you guys are bringing this to a vote and hopefully you will vote in our favor. We'd be very appreciative because we have plans for the hospital," Johnson said. "Thank you for the opportunity and thank you for meeting."

Johnson was asked about the plans.

"Initially we want to turn it into 75 new parking spaces for the hospital.

We are looking at the expansion of some services. Right now we are looking at radiation department and how we can make that more modern. There's an opportunity there to add to the building and the addition would need spaces as well. That's really our plan to grow the hospital, grow outpatient services to look at radiation oncology and try to improve that program and the parking is needed to grow the services on campus."

Ed Schober said he wanted to remind board members "When we are faced with a decision like this, when we are approving demolition, or denying it, we're making that decision based on three criteria. I think it's important we have those three criteria in mind, whoever makes that motion.

Because the property is in the historic district our findings must include one of the following in our recommendation to approve or deny the demolition."

Schober then read from the City Code Section 79-14040 Findings.

I want you to keep that in mind as we conclude tonight with a decision. The point that I made in the past that I just want to reiterate today is the prominence of that corner is one that you look at a corner site like that with more significance in a city, and particularly when a building declines. Schober said portions of the building date to the 1860s and the 1920s. "In this time in the city we've seen it happen over and over again where a building maybe that most had thought had outlived its usefulness and was of no further value other than demolition, has experienced a rebirth and I cited some examples." Crocker Sprague Building Cardinal Mindszenty building, right across the street from this site we had a funeral home that was vacant for several years, it was vacant longer than the church, is a medical building. I think those examples of adaptive reuse are around us, we've seen it, they've been successful."

Called on other board members

I want to say I do respect Ed's opinions and beliefs I do feel however that if we do deny the demo that thing is going to follow a similar path as the building, the mansion that was next door to it and that ultimately ended up being taken down obviously and costing quite a bit of I believe it did go to a court ruling. I don't know the exact direction it took. I feel that it's not necessarily giving in, but it's just it's we can only go so far as to save what is there."

Schober said by the hospital's own consultant the building was not found to be of any significant damage it was not found to be structurally unsound.

"By that architect's own testimony it could stand for years. The Ford house was different the hospital had owned it for a number of years prior to the new ordinance. This property was purchased just a year ago with full knowledge of the planning issues at stake. So much so that the hospital even briefed us as a board through the previous director of development our thoughts might be if they go ahead. At that time most of us thought that unless there were plans for a real built development, not a parking lot that we were not in favor of it. That was an opinion. The hospital proceeded to go ahead and buy it anyways. I see it as a difference between the Ford House property which was ultimately demolished, and this property at 501 for that reason. There was a code, new planning standards had been in existence for many years prior to the hospital buying it and they had been applicants with that knowledge.

Bill Tuggle stated:

"I already made my opinion known. I respect your opinions, I've lived in that proximity for the last 25 years and I've watched that church deteriorate over that time period. I don't see it getting any better so to wait until it does become unsafe so we can let the hospital progress that's my feeling on the subject.

Chris Piede said his opinion was unchanged.

"I just feel being the terms it says for zoning it just doesn't seem as a member of the planning board I should be voting against it when it says right there and it doesn't meet any of the criteria in my opinion. ... I'm not going to vote for the demolition."

John Mackowiak cited other properties that the hospital bought including the demolition of property at Eagle and fifth streets. "The hospital brought it up to the planning board, the board was an obstructionist prevented them from progressing and it went to court and ultimately it came down at the cost of taxpayer dollars being fought for it seems like a battle we can't win. City Hall can't fight the hospital just the opposite of the own saying you can't fight city hall. I took a good look at it and I've also lived in Dunkirk all my life, I've never taken a good look at that building and I did after ... I found that building to be unique and really a jewel. It looks like a little castle with the front looks like a castle. ... Unfortunately it happens to be in the wrong place at the wrong time. If Medicor, the doctors chose that corner and built their medical building there we wouldn't be having this discussion. If the city wanted to make that an historical site and make it another museum or move City Hall or whatever reason, they should have bought it when it was for sale. The hospital bought the building so now we're in this position. Do we waste taxpayer dollars fighting for a cause that most likely ultimately will lose, even though this code was in place afterwards because there's no use for the building and that would probably what they would present to the court and the judge will have to decide against historic or progress. I kind of feel we're wasting our time here, let's get progress going. New York is trying to attract business trying to get things get moving let's get the ball moving.

Schober said he understood but he had yet to see an example of a building that had historic significance demolished for parking being equated with progress. "I think you and I are old enough to remember buildings prior to urban renewal and what that did to the city ... I see at least my role on the planning board too, you can be mindful and you can be appreciative of progress but you do have to be a guardian and conservator as well for the historic district. It was established in the City code and I feel the responsibility, as Chris mentioned to look at this with the guidelines that we have.

Schober pointed out again the building has not been found unsafe.

"Why are we saying it's OK to demolish it?" he asked.

"Are we going to wait until it becomes unsafe?" Mackowiak countered.

"You have to mothball it to prevent further deterioration," Schober replied.

Mackowiak replied that would be creating an attractive nuisance for youths.

Schober said no one was saying a specific amount of dollars in it and cited CMHS unused for 20  
Discussion turned to

"It was turned over fairly quickly so who's to say there wasn't or couldn't have been another interest out there," Schober.

Andy Bohn made motion to allow the demolition.

Tuggle added based on securing necessary permits.

Mackowiak recalled the landscaping asked for but was told that would be at a later meeting.

Frank Schneider said the intentions are to put in some kind of landscaping.

Mr. Johnson said they would like to keep some of the city's history.

Steve Neratko said he would like to make his feelings known prior to the vote.

"I do agree 100 percent with you Ed that we don't really have the authority right now to take it down according to the Code. I would disagree with the thought that taking a building down and putting parking lots is progress. Personally due to family health concerns I've been to over a dozen hospitals over the last two years. I cannot imagine a hospital having more parking available than this one. I have never had any trouble parking at this hospital."

Schober noted again the building is not near collapse. "Think about the precedent that's being set. Taking down a building in the historic district for parking on a corner. I just think that does require us to look at and make those decisions. It's just not there."

Piede recalled the architect saying the building had "good bones."

Neratko said it would set a precedent.

Johnson said the last time he was present he talked about volume increases at the hospital and ran through those again. Talk turned to parking issues and Johnson said the hospital has gotten letters from a neighborhood association complaining about hospital employees and visitors parking in residential areas. "Because it's going to be parking initially, I think the hospital really needs this space so we can continue this growth."

Mackowiak said he was trying to look at the hospital's and community's needs. It was clear throughout the meeting that the vote was set. "Our opinions as citizens are aside we have a role as planning board members"

The role of the Planning Board members was the next topic of discussion.

Schneider said it would cost \$1 million to renovate the building and then it would have no parking for retail use.

"I see the need to grow but unfortunately the building is the one that takes the hit," he said. "There is a need for parking, Not every day, but lots of times."

Szot made the suggestion that a lawsuit could follow and asked that any motion should mimic Code language.

Schober read the code again.

There could be action by a group either way if you guys vote to knock the building down and neighborhood group would like to sue the city to keep the building standing that would be a possibility by affirming that the building be demolished.

Whether the board would be setting a precedent was another topic for discussion. Schober said he saw no criteria the board could use to agree to the demolition.

Bohn withdrew his original motion. Mackowiak then made a motion that was seconded by Tuggle.

Neratko then advised what the wording should be.

Szot "that the applicant has met their burden pursuant to Chapter 79 of the Dunkirk City Code. Then you'd vote in the affirmative or negative.

Schober called to hear the motion again

Bill Tuggle made the motion:

"Feeling that Brooks Hospital has provided evidence that 79-14040 Section 3 that they are unable to rehab the property in question economically due to various factors I make a motion that they be allowed to demolish the building based on obtaining the proper permits."

Andy Bohn seconded the motion.

Szot said if you vote yes the hospital can get a demolition permit, if you vote no and it's defeated they can't."

Motion passed 3-2 with Tuggle, Bohn and Mackowiak voting yes while Schober and Piede were in opposition.

"I just hope in my lifetime it's not going to be a parking lot for the rest of my lifetime, which I think it will be," Piede stated.

Johnson said there was no time frame for tearing down the building as yet.

Andy Bohn made motion to adjourn at 6:45. Bill Tuggle seconded that motion. All voted in favor.

*Approved 3-2*  
*Bill Tuggle, Andy Bohn, John Mackowiak-Aye, Ed Schober, Chris Piede-Nay*

**CITY OF DUNKIRK PLANNING BOARD**

**RESOLUTION**

**No. 2012-07**

A meeting of the Planning Board (the "Board") of the City of Dunkirk (the "City"), was convened on Tuesday, August 28, 2012 at 6:00pm.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION AUTHORIZING BROOKS MEMORIAL  
HOSPITAL TO DEMOLISH 501 CENTRAL AVENUE**

**WHEREAS**, the City Code provides that the Board shall have full power and authority make investigations, maps, reports, recommendations, and approvals relating to the planning and development of the city; and

**WHEREAS**, pursuant to these duties the Board has reviewing the information supplied by Brooks Memorial Hospital to demolish 501 Central Avenue; and

**WHEREAS**, the Board wishes to approve the transaction submitted and reviewed subject to the conditions contained below; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF  
DUNKIRK PLANNING BOARD AS FOLLOWS:**

Section 1. Hereby offers its approval to Brooks Memorial Hospital for the sole purpose of demolishing 501 Central Avenue

Section 2. The above approval is subject to the following terms and conditions:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Section 3. The above resolutions shall take effect immediately.

Dated: August 28, 2012

STATE OF NEW YORK                    )  
COUNTY OF CHAUTAUQUA        ) SS:

I, the undersigned Recording Secretary of the City of Dunkirk Planning Board, DO  
HEREBY CERTIFY:

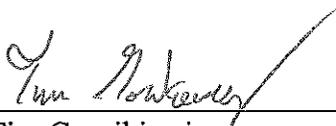
That I have compared the annexed extract of minutes of the meeting of the City of  
Dunkirk Planning Board (the "Board"), including the resolution contained therein, held on  
August 28, 2012, with the original thereof on file in my office, and that the same is a true and  
correct copy of the proceedings of the Board and of such resolution set forth therein and of the  
whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of the Board had due notice of said meeting,  
that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public  
Officers Law (Open Meetings Law), said meeting was open to the general public, and that public  
notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Board present  
throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force  
and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City  
this 28<sup>th</sup> day of August, 2012.

  
\_\_\_\_\_  
Tim Gornikiewicz  
Recording Secretary  
City of Dunkirk Planning Board

[SEAL]